

BEFORE THE TRIAL CHAMBER
SPECIAL TRIBUNAL FOR LEBANON

Case No: STL-11-01/T/TC

Before: Judge David Re, Presiding
Judge Janet Nosworthy
Judge Micheline Braidy
Judge Walid Akoum, Alternate Judge
Judge Nicola Lettieri, Alternate Judge

Registrar: Mr Daryl Mundis

Date: 28 May 2018

Filing Party: Defence Counsel - Oneissi

Original language: English

Classification: Public

PROSECUTOR

v.

**SALIM JAMIL AYYASH
HASSAN HABIB MERHI
HUSSEIN HASSAN ONEISSI
ASSAD HASSAN SABRA**

Annex A

Summary of Facts of General El Sayed's Expected Testimony pursuant to the Trial Chamber Scheduling Order dated 16 May 2018

Office of the Prosecutor:

Mr Norman Farrell & Mr Nigel Povoas

Defence Office:

Ms Héleyn Uñac

Legal Representatives of Participating Victims:

Mr Peter Haynes, Mr Mohammad F. Mattar & Ms Nada Abdelsater-Abusamra

Counsel for Mr Salim Jamil Ayyash:

Mr Emile Aoun, Mr Thomas Hannis & Mr Chad Mair

Counsel for Mr Hassan Habib Merhi:

Mr Mohamed Aouini, Ms Dorothee Le Fraper du Hellen & Mr Jad Youssef Khalil

Counsel for Mr Hussein Hassan Oneissi:

Mr Vincent Courcelle-Labrousse, Mr Yasser Hassan & Ms Natalie von Wistinghausen

Counsel for Mr Assad Hassan Sabra:

Mr David Young, Mr Geoffrey Roberts & Ms Sarah Bafadhel



**SUMMARY OF FACTS OF
GENERAL JAMIL EL SAYED'S EXPECTED TESTIMONY**

A. General El Sayed's identity and general background information in relation to the relevance of his testimony to the Defence case

B. Pre-2000 political context

In 1992 and until 1998, Rafik Hariri became the first post-civil war Prime Minister of Lebanon under President Elias Hrawi. Until 1998, Hariri's economic policy in Beirut is essentially implemented through his company Solidere (a construction company established to reconstruct post-war Lebanon). The Syrian authorities were fully supportive of Hariri's project, which contributed to the success of Solidere.

In 1996, Hariri was in favour of the extension of President Hrawi's mandate and to this end, wanted to amend the Constitution. The Syrians were prepared to look for other options.

In 1998, Emile Lahoud becomes President of Lebanon and had the priority to appoint Salim El-Hoss as Prime Minister. However, the Syrian advice was to nominate Rafik Hariri as Prime Minister. But finally El-Hoss was nominated after a constitutional misunderstanding between Lahoud and Hariri.

Further to the defeat of Salim El-Hoss and the victorious comeback of Hariri in the 2000 Parliamentary elections, the Syrians approved to have Hariri appointed as Prime Minister. As a result, Hariri replaced El-Hoss as Prime Minister in 2000.

C. Negotiations of the 2000 electoral law

A new electoral law was voted in 2000, wrongly called Ghazi Kanaan law. The law was voted after the Israeli withdrawal from South Lebanon, and at the beginning of the Syrian redeployment from Mount Lebanon and under the new Syrian leadership.

This law was voted further to negotiations aiming at ensuring a better representation of the Christian groups in the Parliament. Although most political/sectarian groups were against

this law, including Rafik Hariri's groups, the new law was finally approved with Rafik Hariri's group votes and others.

Rafik Hariri won the 2000 elections in Beirut and was appointed Prime Minister.

D. 2003-2004 - Raising tensions about electing a new president

In late 2003-early 2004, after the invasion of Iraq (March-May), the tensions in the Middle East were near to the boiling point. Syria happened to be one of the non-permanent members of the Security Council and aligned with France in the opposition to the Iraqi invasion. In this same period, Hassan Nabaa and the AQ13 group arrived in Lebanon.

The race for the Lebanese presidential election starts in this much tensed context, with great uncertainty as to whether the Syrians would support an extension of Lahoud's mandate, who did not know whether he would stay President.

In February-March 2004, assuming that the Syrians had made up their mind in favour of Lahoud, Hariri started a pre-emptive campaign against the extension of his mandate and in favour of another pro-Syrian candidate whom he thought would take a smooth attitude as former President Hrawi.

At the time however, Syria was still undecided about the extension of Lahoud's term or for another candidate.

In July-August 2004, when asked by journalists during an official trip to Kuwait regarding the Lebanese election, Assad had responded that all candidates were Syria's friends.

In August-September 2004, Wissam Al-Hassan visited General El Sayed on behalf of Rafik Hariri to obtain confirmation of the final Syrian position on the presidency. According to General El Sayed, the personal attack conducted by Hariri against the extension of Lahoud's term would push the Syrians to support it. Further to that, Hariri presided the Council of Ministers deciding on the amendment of the Constitution required for the extension of Lahoud's mandate and voted the extension in the Parliament. Only Walid Jumblatt's group voted against it.

E. Negotiations of the 2004 electoral law

The assassination attempt of Marwan Hamade occurred on 1st October 2004, in this difficult and tensed political context. Jumblatt understood the attempt as a message sent to him by the Syrians as a warning for not having voted for the extension of President Lahoud.

On 4-5 October 2004, General El Sayed meets with the Ambassadors of the five permanent members of the UN Security Council in Beirut to discuss the recent events and resulting threats to the stability of Lebanon. A statement is issued.

Between 5 and 20 October 2004, Rafik Hariri understood that the extension of Lahoud's mandate had been decided and started negotiating his appointment as future Prime Minister under Lahoud's extended presidential mandate.

On 20 October 2004, after the failure of negotiations between Lahoud and Hariri, Hariri resigned from the government and issues his famous farewell statement. Hariri got in touch with General El Sayed to ask whether this will be a problem with the Syrians as this was not his intention.

F. The August 2004 alleged meeting

The President was to be extended on 24 November 2004 whilst the general election was to be held in May 2005.

It is alleged that in the August 2004 meeting between Hariri and Assad, Assad would have told Hariri that he would break Lebanon on Hariri's head if Lahoud was not to be extended. According to General El Sayed, this did not happen.

G. The evolution of the relationship between Rafik Hariri and Hezbollah

Hezbollah's alleged involvement in the assassination of Rafik Hariri was not considered by the UNIIC and the ISF (Information Branch) investigators until 2006. Hezbollah was never represented in any of his governments.

The relationship between Hariri and Hezbollah has gone through three stages.

- The first phase was in the early 90s, after the Taëf Agreement (Rafik Hariri was one of the driving forces behind this agreement). Hariri was Prime Minister between 1992

and 1998 when large parts of South Lebanon were under Israeli occupation. One incident took place in South Beirut, in the context of a demonstration by Hezbollah supporters against the Madrid peace negotiations, which resulted in the Lebanese Army shooting at the demonstrators and the death of civilians and injury of many people, including women and children. Another incident that occurred that same year was in relation to the firing of missiles from South Lebanon to the occupied territories. Except for these two incidents, the relation between Hariri and Hezbollah was not conflictual.

- The second phase covers the second part of the 90s, where the improvement of the Hezbollah-Hariri relationship and the Israeli attacks against civilians in Lebanon leads to the 1996 April Understanding. This agreement is unique in the Arab Israeli conflict as it ensures a cease fire between the Israelis and the Hezbollah where the protection of the civilians is guaranteed. It was secured thanks to Hariri's diplomatic relations with all parties including Hezbollah, and the support of President Chirac.
- The third phase starts in 2000, further to the Israeli withdrawal from South Lebanon on 25 May 2000, followed by negotiations to liberate Lebanese hostages held by the Israelis. Two questions remain to be addressed after the Israeli withdrawal: the exchange of hostages and the withdrawal from the Shebaa and Kfarshouba. During this phase, General El Sayed had been appointed by the Lebanese Government to lead the military negotiations regarding the Israeli withdrawal from South Lebanon. He was also later appointed by President Lahoud and Prime Minister Hariri to lead, in coordination with Hezbollah, the negotiations for the exchange of prisoners between Hezbollah and the Israelis through German mediation. This resulted in the release of some of the Lebanese hostages in 2004. They were welcomed back at the airport by Prime Minister Rafik Hariri and President Emile Lahoud side by side.

